



Request for City Council Committee Action From the Finance Department

Date: December 8, 2003
To: Ways and Means Committee
Referral to:

Subject: Request Authorization to approve a Mutual Release and Termination of Standby Bond Purchase Agreements with Bayerische Hypo- und Vereinsbank, AG.

Recommendation:

The Finance Department recommends the City Council:

1. Approve the Mutual Release and Termination of Standby Bond Purchase Agreements with Bayerische Hypo- und Vereinsbank AG by authorizing the appropriate City officials to execute the attached final release document.
2. Authorize the Finance Officer to settle the financial terms of the release by paying \$150,000 in respect of accrued and unpaid commitment fees and unreimbursed fees & expenses owed under the terminated Standby Bond Purchase Agreements.

Previous Directives: N/A

Prepared or Submitted by Mike Abeln, Director, Capital & Debt Management, 673-3496

Approved by: Patrick Born, City Finance Officer

John Moir, City Coordinator

Presenters in Committee: Mike Abeln, Director, Capital & Debt Management

Financial Impact (Check those that apply)

☒ No financial impact - or - Action is within current department budget.

(If checked, go directly to Background/Supporting Information)

☐ Action requires an appropriation increase to the Capital Budget

☐ Action requires an appropriation increase to the Operating Budget

☐ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☒ Other financial impact (Explain): Mutual Release & Termination of Standby Bond Purchase

Agreements with Bayerische Hypo- und Vereinsbank, AG. - \$150,000 payment.

☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (use any categories that apply)

☐ Neighborhood Notification

☐ City Goals

☐ Comprehensive Plan

☐ Zoning Code

☐ Other
☒ Not applicable

Background/Supporting Information Attached

In January of 2003, the Finance Officer requested permission to issue a Request for Proposals (RFP) to replace Bayerische Hypo- Und Vereinsbank, AG due to the bank receiving a credit downgrade in December of 2002. As the City's liquidity provider, the downgrade caused the City to incur higher interest rates on it's outstanding variable rate debt portfolio.

The City received eight proposals in response to the RFP and after careful consideration by the City's Debt Management Committee, Dexia Credit Local was selected as having the strongest overall credit backing and most favorable long-term financial implications.

Upon termination with Bayerische Hypo- und Vereinsbank, AG, there arose a dispute over the timing and processes used to accomplish the termination as well as the total accrued but unpaid fees required upon termination. The proposed settlement accomplishes the official termination date as of July 21st, 2003 corresponding to the new agreements with Dexia Credit Local. It also caps all disputed unpaid fees and expenses at \$150,000 which essentially works out to the City of Minneapolis settling this action at the fees stipulated in the original agreements as if they were due and payable to approximately October 27th, 2003, inclusive of unreimbursed fees & expenses requested. This issue has been reviewed by the City Attorney's office and they are in agreement with settling this dispute.

Mutual Release and Termination of Standby Bond Purchase Agreements

Please refer to each of the Standby Bond Purchase Agreements (each an "Agreement" and collectively the "Agreements") listed on Attachment A between the City of Minneapolis (the "City") and Bayerische Hypo- und Vereinsbank AG, New York Branch (the "Bank").

The City and the Bank have been in dispute with respect to various matters under the Agreements, including the accrual of commitment fees payable by the City under Section 2.04(a) of each Agreement, and the termination of the Agreements pursuant to Section 9.07(b) of each Agreement. Each of the City and the Bank desires to compromise and settle the outstanding disputes. Therefore, in consideration of the mutual agreements set forth herein, we hereby agree as follows:

1. The City shall pay to the Bank the following amounts by wire transfer of immediately available funds: (i) \$125,000 in respect of accrued and unpaid commitment fees under the Agreements, and (ii) \$25,000 in respect of unreimbursed fees and expenses incurred by the Bank under the Agreements.

2. Upon receipt by the Bank of the payments specified in Paragraph 1 above, each of the Agreements shall be terminated effective as of July 21, 2003. Upon the effectiveness of such termination, each of the City and the Bank shall have no further rights or obligations of any nature whatsoever under any of the Agreements.

3. Upon the execution and delivery of this agreement and payment of the amounts specified in Paragraph 1 above, each of the City and the Bank hereby releases the other from any and all claims, obligations, liabilities, costs and expenses of any nature whatsoever, whenever arising, with respect to the Agreements and the transactions contemplated thereby.

BAYERISCHE HYPO- UND VEREINSBANK
AG, NEW YORK BRANCH

By _____

By _____

CITY OF MINNEAPOLIS, MINNESOTA

By: _____
Mayor

Countersigned: _____
Finance Officer

Approved: _____
Department Head
Responsible for Agreement

Approved as to form: _____
Assistant City Attorney

Attachment A

1. General Obligation Block E Bonds, Series 2000A (the "Series 2000A Block E Bonds"), CUSIP 60374A E88, issued pursuant to a Trust Indenture, dated as of October 1, 2000 (the "Series 2000 Block E Indenture").
2. Standby Bond Purchase Agreement, dated as of October 1, 2000, with respect to the General Obligation Taxable Block E Bonds, Series 2000B (the "Series 2000B Block E Bonds"), CUSIP 60374A E96, issued pursuant to the Series 2000 Block E Indenture.
3. Standby Bond Purchase Agreement, dated as of September 1, 2000, with respect to the General Obligation Judgment Bonds, Series 2000 (the "Series 2000 Judgment Bonds"), CUSIP 60374A E62, issued pursuant to a Trust Indenture, dated as of September 1, 2000 (the "Series 2000 Judgment Indenture").
4. Standby Bond Purchase Agreement, dated as of September 1, 2000, with respect to the General Obligation Convention Center Bonds, Series 2000 (the "Series 2000 Convention Center Bonds"), CUSIP 60374A E70, issued pursuant to a Trust Indenture, dated as of September 1, 2000 (the "Series 2000 Convention Center Indenture").
5. Standby Bond Purchase Agreement, dated as of June 1, 1999, with respect to the General Obligation Convention Center Bonds, Series 1999 (the "Series 1999 Bonds"), CUSIP 60374A WX3, issued pursuant to a Trust Indenture, dated as of June 1, 1999 (the "Series 1999 Indenture").
6. Standby Bond Purchase Agreement, dated as of June 1, 1998, with respect to the General Obligation Various Purpose Bonds, Series 1998B (the "Series 1998 Bonds"), CUSIP 60374A UW7, issued pursuant to a Trust Indenture, dated as of June 1, 1998 (the "Series 1998 Indenture").
7. Standby Bond Purchase Agreement, dated as of June 1, 1997, with respect to the General Obligation Various Purpose Bonds, Series 1997B (the "Series 1997 Bonds"), CUSIP 60374A SX8, issued pursuant to a Trust Indenture, dated as of June 1, 1997 (the "Series 1997 Indenture").
8. Standby Bond Purchase Agreement, dated as of June 1, 1996, with respect to the General Obligation Various Purpose Bonds, Series 1996 (the "Series 1996 Bonds"), CUSIP 60374A SK6, issued pursuant to a Trust Indenture, dated as of June 1, 1996 (the "Series 1996 Indenture").
9. Standby Bond Purchase Agreement, dated as of June 1, 1995, with respect to the General Obligation Various Purpose Bonds, Series 1995 (the "Series 1995 Bonds"), CUSIP 60374A LV9, issued pursuant to a Trust Indenture, dated as of June 1, 1995 (the "Series 1995 Indenture").
10. Standby Bond Purchase Agreement, dated as of May 1, 1994, with respect to the General Obligation Various Purpose Bonds, Series 1994A and 1994B (the "Series 1994 Bonds"), CUSIP 60374A LJ6W, issued pursuant to a Trust Indenture, dated as of May 1, 1994 (the "Series 1994 Indenture").